

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LESLIE HURN, JR.,

Petitioner,

CASE NO. 11-13759

v.

HON. MARIANNE O. BATTANI

MITCH PERRY,

Respondent.

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION DENYING PETITIONER'S MOTION FOR DISCOVERY AND AN
EVIDENTIARY HEARING AND PETITION FOR A WRIT OF HABEUS CORPUS**

This matter is before the Court on Petitioner Leslie Hurn Jr.'s Petition for Writ of Habeus Corpus (Doc. 1) and Motion for Discovery and Evidentiary Hearing (Doc. 10). On April 16, 2008, Hurn was convicted of felon in possession of a firearm and possession of a firearm during the commission of a felony. See Mich. Comp. Laws §§ 750.224f, 750.227b. Hurn argues he is entitled to discovery, an evidentiary hearing, and release from prison resulting from ineffective assistance of his trial counsel, delay in arrest, prosecution's mishandling of evidence, and violation of constitutional rights.

The case was referred to Magistrate Judge Paul J. Komives who issued a Report and Recommendation ("R&R") on November 20, 2012 denying all of Hurn's requested relief. (Doc. 14). The R&R informed the parties that objections to the R&R must be filed within "fourteen (14) days of service of a copy hereof" and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (Doc. 14 at 27) (citations omitted). Neither party filed objections.

Because no objections were filed upon the issuance of the R&R, the parties have waived their right to *de novo* review and appeal. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). In addition, the Court finds no clear error in the analysis of the Magistrate Judge. See Campbell v. United States Dist. Court, 501 F.2d 196, 206 (9th Cir. 1974). Although the Court recognizes the Magistrate Judge's recommendation to deny Petitioner a certificate of appealability, the issue is moot as no objections were filed, effectively eliminating any right to appeal this order. Accordingly, the Court **ADOPTS** the Magistrate Judge's recommendation, **DENIES** Petitioner's request for a writ of habeus corpus, and **DENIES** Petitioner's motion for discovery and an evidentiary hearing.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: December 20, 2012

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon the Petitioner via ordinary U.S. Mail, and Counsel for the Respondent , electronically.

s/Bernadette M. Thebolt
Case Manager